

**35A-4-501 Unemployment Compensation Fund -- Administration -- Contents -- Treasurer and custodian -- Separate accounts -- Use of money requisitioned -- Advances under Social Security Act.**

- (1)
- (a) There is established the Unemployment Compensation Fund, separate and apart from all public money or funds of this state, that shall be administered by the department exclusively for the purposes of this chapter.
  - (b) This fund shall consist of the following money, all of which shall be mingled and undivided:
    - (i) all contributions collected under this chapter, less refunds of contributions made from the clearing account under Subsection 35A-4-306(5);
    - (ii) interest earned upon any money in the fund;
    - (iii) any property or securities acquired through the use of money belonging to the fund;
    - (iv) all earnings of the property or securities;
    - (v) all money credited to this state's account in the unemployment trust fund under Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended; and
    - (vi) all other money received for the fund from any other source.
- (2)
- (a) The state treasurer shall:
    - (i) be the treasurer and custodian of the fund;
    - (ii) administer the fund in accordance with the directions of the division; and
    - (iii) pay all warrants drawn upon it by the division or its duly authorized agent in accordance with rules made by the department.
  - (b) The division shall maintain within the fund three separate accounts:
    - (i) a clearing account;
    - (ii) an unemployment trust fund account; and
    - (iii) a benefit account.
  - (c) All money payable to the fund, upon receipt by the division, shall be immediately deposited in the clearing account.
  - (d)
    - (i) All money in the clearing account after clearance shall, except as otherwise provided in this section, be deposited immediately with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained under Section 904 of the Social Security Act, 42 U.S.C. 1104, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.
    - (ii) Refunds of contributions payable under Subsections 35A-4-205(1)(a) and 35A-4-306(5) may be paid from the clearing account or the benefit account.
  - (e) The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund in the United States treasury.
  - (f) Money in the clearing and benefit accounts may be deposited in any depository bank in which general funds of this state may be deposited, but no public deposit insurance charge or premium may be paid out of the fund.
  - (g)
    - (i) Money in the clearing and benefit accounts may not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank.
    - (ii) The money shall be secured by the depository bank to the same extent and in the same manner as required by the general depository law of this state.

- (iii) Collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the state.
- (h)
  - (i) The state treasurer is liable on the state treasurer's official bond for the faithful performance of the state treasurer's duties in connection with the unemployment compensation fund provided for under this chapter.
  - (ii) The liability on the official bond shall be effective immediately upon the enactment of this provision, and that liability shall exist in addition to the liability upon any separate bond existent on the effective date of this provision, or which may be given in the future.
  - (iii) All sums recovered for losses sustained by the fund shall be deposited in the fund.
- (3)
  - (a)
    - (i) Money requisitioned from the state's account in the unemployment trust fund shall, except as set forth in this section, be used exclusively for the payment of benefits and for refunds of contributions under Subsections 35A-4-205(1)(a) and 35A-4-306(5).
    - (ii) The department shall from time to time requisition from the unemployment trust fund amounts, not exceeding the amounts standing to this state's account in the fund, as it considers necessary for the payment of those benefits and refunds for a reasonable future period.
    - (iii)
      - (A) Upon receipt the treasurer shall deposit the money in the benefit account and shall pay benefits and refunds from the account by means of warrants issued by the division in accordance with rules prescribed by the department.
      - (B) Expenditures of these money in the benefit account and refunds from the clearing account are not subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.
  - (b) Money in the state's account in the unemployment trust fund that were collected under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., and credited to the state under Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended may be requisitioned from the state's account and used in the payment of expenses incurred by the department for the administration of the state's unemployment law and public employment offices, if the expenses are incurred and the withdrawals are made only after and under a specific appropriation of the Legislature that specifies:
    - (i) the purposes and amounts;
    - (ii) that the money may not be obligated after the two-year period that began on the date of the enactment of the appropriation law; and
    - (iii) that the total amount which may be used during a fiscal year may not exceed the amount by which the aggregate of the amounts credited to this state's account under Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended, during the fiscal year and the 34 preceding fiscal years, exceeds the aggregate of the amounts used by this state for administration during the same 35 fiscal years.
  - (A) For the purpose of Subsection (3)(b)(iii), amounts used during any fiscal year shall be charged against equivalent amounts that were first credited and that have not previously been so charged. An amount used during any fiscal year may not be charged against any amount credited during a fiscal year earlier than the 34th preceding fiscal year.
  - (B) Except as appropriated and used for administrative expenses, as provided in this section, money transferred to this state under Section 903 of the Social Security Act as amended, may be used only for the payment of benefits.

- (C) Any money used for the payment of benefits may be restored for appropriation and use for administrative expenses, upon request of the governor, under Section 903(c) of the Social Security Act.
- (D) The division shall maintain a separate record of the deposit, obligation, expenditure, and return of funds deposited.
- (E) Money deposited shall, until expended, remain a part of the unemployment fund and, if not expended, shall be returned promptly to the account of this state in the unemployment trust fund.
- (F) The money available by reason of this legislative appropriation may not be expended or available for expenditure in any manner that would permit their substitution for, or a corresponding reduction in, federal funds that would in the absence of the money be available to finance expenditures for the administration of this chapter.
- (c) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or in the discretion of the division, shall be redeposited with the secretary of the treasury of the United States of America to the credit of the state's account in the unemployment trust fund, as provided in Subsection (2).
- (4)
  - (a) The provisions of Subsections (1), (2), and (3), to the extent that they relate to the unemployment trust fund, shall be operative only so long as the unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for the state a separate book account of all money deposited in the fund by the state for benefit purposes, together with the state's proportionate share of the earnings of the unemployment trust fund, from which no other state is permitted to make withdrawals.
  - (b)
    - (i) When the unemployment trust fund ceases to exist, or the separate book account is no longer maintained, all money belonging to the unemployment compensation fund of the state shall be administered by the division as a trust fund for the purpose of paying benefits under this chapter, and the division shall have authority to hold, invest, transfer, sell, deposit, and release the money, and any properties, securities, or earnings acquired as an incident to the administration.
    - (ii) The money shall be invested in readily marketable bonds or other interest-bearing obligations of the United States of America, of the state, or of any county, city, town, or school district of the state, at current market prices for the bonds.
    - (iii) The investment shall be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits.

Amended by Chapter 297, 2011 General Session